



February 23, 2007

SENATE BILL No. 174

DIGEST OF SB 174 (Updated February 20, 2007 1:46 pm - DI 106)

Citations Affected: IC 22-11; IC 32-31; IC 36-8; noncode.

Synopsis: Smoke detectors. Makes it a Class B infraction if a landlord fails to properly install a smoke detector at the time a tenant moves in, or fails to repair an inoperative smoke detector within seven days of receiving notice by certified mail that the smoke detector requires repair. Increases the penalty to a Class A infraction for a repeat violator, and makes the offense a Class D felony if a fire occurs on the rental premises causing bodily injury or loss of life and the fire, injury, or loss of life could have been avoided by an operable smoke detector. Makes it a Class D felony for a tenant to knowingly or intentionally fail to replace smoke detector batteries or report a defective or inoperable smoke detector to the landlord if a fire occurs on the rental premises causing bodily injury or loss of life and the fire, injury, or loss of life could have been avoided by an operable smoke detector. Permits a fire department to inspect a private dwelling upon the request of the owner or primary lessee who resides in the dwelling. Makes other changes.

Effective: July 1, 2007.

Jackman, Tallian

January 11, 2007, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
February 22, 2007, amended, reported favorably — Do Pass.

SB 174—LS 6499/DI 103+



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February 23, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 174

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-11-18-5.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2007]: **Sec. 5.5. (a) As used in this section,**
4 **"bodily injury" has the meaning set forth in IC 35-41-1-4.**

5 **(b) As used in this section, "landlord" has the meaning set forth**
6 **in IC 32-31-3-3.**

7 **(c) As used in this section, "rental premises" has the meaning**
8 **set forth in IC 32-31-7-3.**

9 **(d) As used in this section, "rental unit" has the meaning set**
10 **forth in IC 32-31-3-8.**

11 **(e) As used in this section, "tenant" has the meaning set forth in**
12 **IC 32-31-3-10.**

13 **(f) A landlord who violates section 3.5 of this chapter:**

14 **(1) at the time the landlord delivers a rental unit to a tenant;**
15 **or**

16 **(2) by failing to repair or replace a defective or an inoperable**
17 **smoke detector not later than seven (7) days after receiving**

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SB 174—LS 6499/DI 103+



1 written notice by certified mail, return receipt requested, of
 2 the need to repair or replace the defective or inoperable
 3 smoke detector under section 3.5(e)(2) of this chapter;
 4 commits a Class B infraction. However, the offense is a Class A
 5 infraction if the landlord has a prior violation or conviction for an
 6 offense under this section.

7 (g) A landlord who knowingly or intentionally violates section
 8 3.5 of this chapter:

9 (1) at the time the landlord delivers a rental unit to a tenant;
 10 or

11 (2) by failing to repair or replace a defective or an inoperable
 12 smoke detector not later than seven (7) days after receiving
 13 written notice by certified mail, return receipt requested, of
 14 the need to repair or replace the defective or inoperable
 15 smoke detector under section 3.5(e)(2) of this chapter;
 16 commits smoke detector malfeasance, a Class D felony, if bodily
 17 injury or loss of life occurs as the result of a fire in the rental
 18 premises and an operable smoke detector could have prevented the
 19 fire, injury, or loss of life.

20 (h) A tenant who knowingly or intentionally fails to:

21 (1) replace the batteries in a battery operated smoke detector
 22 installed in the tenant's rental unit; or

23 (2) promptly notify the landlord that a smoke detector
 24 installed in the rental unit is defective or inoperable and
 25 requires repair or replacement;

26 commits smoke detector malfeasance, a Class D felony, if bodily
 27 injury or loss of life occurs as the result of a fire in the rental
 28 premises and an operable smoke detector could have prevented the
 29 fire, injury, or loss of life.

30 SECTION 2. IC 32-31-5-7 IS ADDED TO THE INDIANA CODE
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2007]: Sec. 7. At the time a landlord delivers a rental unit to a
 33 tenant, the landlord shall require the tenant to acknowledge in
 34 writing that the rental unit is equipped with a functional smoke
 35 detector.

36 SECTION 3. IC 32-31-7-5 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. A tenant shall do the
 38 following:

39 (1) Comply with all obligations imposed primarily on a tenant by
 40 applicable provisions of health and housing codes.

41 (2) Keep the areas of the rental premises occupied or used by the
 42 tenant reasonably clean.

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(3) Use the following in a reasonable manner:

(A) Electrical systems.

(B) Plumbing.

(C) Sanitary systems.

(D) Heating, ventilating, and air conditioning systems.

(E) Elevators, if provided.

(F) Facilities and appliances of the rental premises.

(4) Refrain from defacing, damaging, destroying, impairing, or removing any part of the rental premises.

(5) Comply with all reasonable rules and regulations in existence at the time a rental agreement is entered into. A tenant shall also comply with amended rules and regulations as provided in the rental agreement.

(6) Ensure that each smoke detector installed in the tenant's rental unit remains functional and is not disabled.

This section may not be construed to limit a landlord's obligations under this chapter or IC 32-31-8.

SECTION 4. IC 36-8-17-8, AS AMENDED BY P.L.1-2006, SECTION 579, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) A fire department serving an area that does not include a city may engage in an inspection program to promote compliance with fire safety laws. **Upon the request of an owner or primary lessee who resides in a private dwelling, the fire department may inspect the interior of the private dwelling to determine compliance with IC 22-11-18-5.5.** The fire department shall maintain a written report for each inspection. These reports shall be made available to the division upon request.

(b) The fire department serving an area that includes a city shall inspect every place and public way within the jurisdiction of the city, except the interiors of private dwellings, for compliance with the fire safety laws. **Upon the request of an owner or primary lessee who resides in a private dwelling, the fire department may inspect the interior of the private dwelling to determine compliance with IC 22-11-18-5.5.** Except as otherwise provided in the rules adopted by the commission, the fire chief of the fire department shall specify the schedule under which places and public ways are inspected and may exclude a class of places or public ways from inspection under this section, if the fire chief determines that the public interest will be served without inspection. The fire department shall maintain a written report for each inspection. The fire department shall submit monthly reports to the division, on forms prescribed by the division, containing the following information:

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- 1 (1) The total number of inspections made.
- 2 (2) The total number of defects found, classified as required by
- 3 the office.
- 4 (3) The total number of orders issued for correction of each class
- 5 of defect.
- 6 (4) The total number of orders complied with.
- 7 (c) A volunteer fire department may carry out inspections under this
- 8 section only through an individual who is certified under
- 9 IC 22-14-2-6(c).
- 10 SECTION 5. [EFFECTIVE JULY 1, 2007] **IC 22-11-18-5.5(g) and**
- 11 **IC 22-11-18-5.5(h), both as added by this act, apply only to crimes**
- 12 **committed after June 30, 2007.**

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SENATE MOTION

Madam President: I move that Senator Tallian be added as second author of Senate Bill 174.

JACKMAN

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 174, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 174 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 6, Nays 0.

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